

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Walter Clinton Batchelor,) C/A No. 5:12-2585-DCN-KDW
)
Plaintiff,)
)
vs.)
)
Evans Medical Staff; Dr. Drago; Nurse Stoke;)
Nurse Spivey; Nurse Smith; Dr. Tomarchio;)
Warden Eagleton; SCDC Director Byers,)
)
Defendants.)
)

ORDER

This is a civil action filed by a state prisoner. Therefore, in the event that a limitations issue arises, Plaintiff shall have the benefit of the holding in *Houston v. Lack*, 487 U.S. 266 (1988) (prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to district court). Under Local Civil Rule 73.02(B)(2) of the United States District Court for the District of South Carolina, pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

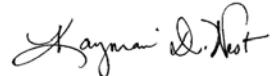
On September 7, 2012, Plaintiff filed his original Complaint, ECF No. 1, and Motion for Leave to Proceed *in form pauperis*, ECF No. 2, in this case. By Order dated September 11, 2012, ECF No. 10, Plaintiff's Motion for Leave to Proceed *in forma pauperis* was granted, and Plaintiff was given a specific time frame in which to bring this case into proper form. Plaintiff complied with the court's Order, and this case was brought into proper form on September 28, 2012. On that date, Plaintiff also filed a notice of change of address indicating that he had been transferred from Evans Correctional Institution to Lee Correctional Institution. ECF No. 13.

After reviewing Plaintiff's original Complaint, the undersigned issued an Order dated October 9, 2012, ECF No. 17, authorizing service of the original Complaint upon Defendants Dr. Drago, Nurse Stoke, Nurse Spivey, Nurse Smith, Dr. Tomarchio, Warden Eagleton, and SCDC Director Byers. The undersigned did not authorize service on Defendant Evans Medical Staff; in a Report and Recommendation dated October 9, 2012, the undersigned recommended that the original Complaint be partially summarily dismissed as to Defendant Evans Medical Staff. *Id.*; ECF No. 18. Also on October 9, 2012, prior to the issuance of the summons and Forms USM-285 by the Office of the Clerk of Court, the court received Plaintiff's Motion to Amend Complaint, ECF No. 22, which included a proposed amended complaint, ECF No. 22-1. Pursuant to Rule 15 of the Federal Rules of Civil Procedure, Plaintiff submitted his proposed amended complaint during the time period within which he is allowed to amend his complaint once as a matter of course. *See Fed. R. Civ. P. 15(a).*

Accordingly, in the interest of judicial economy, and because no actions had yet been taken pursuant to the court's October 9, 2012 Order or Report and Recommendation, those documents, ECF Nos. 17 and 18, are hereby WITHDRAWN.

Additionally, Plaintiff's Motion to Amend Complaint, ECF No. 22, is GRANTED. In order to preserve issues and give liberal construction to the pleadings, the Office of the Clerk of Court is directed to attach Plaintiff's original Complaint, ECF No. 1, to Plaintiff's Motion to Amend Complaint, ECF Nos. 22, 22-1, so as to create one docket entry designated as the Amended Complaint in this case. The court will then review and analyze Plaintiff's Amended Complaint and take further action, as appropriate.

IT IS SO ORDERED.



October 10, 2012
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge